

761—4.1 (22,304) General provisions.**4.1(1) *Scope of chapter.***

a. This chapter describes the provisions governing public access to records that are owned by or in the physical possession of the department. However, access to personnel and payroll records may also be subject to the rules of the department of administrative services.

b. This chapter does not affect the policy of the department to respond, without charge, to routine oral or written inquiries that do not involve the furnishing of records.

c. This chapter does not make available records compiled by the department in reasonable anticipation of court litigation or formal administrative proceedings. The availability of these records to the public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the department.

4.1(2) *Custodian.* The custodian of a record is the person who heads the departmental office responsible for that record. The department's Records Management Manual identifies the offices that are responsible for particular records.

a. As used in this chapter, the term "custodian" includes the custodian's superiors and the custodian's designees.

b. The custodian's designees may include but are not limited to the records center and the department's general counsel.

c. The custodian of a record is authorized to provide or deny access to that record in accordance with the provisions of this chapter. However, the custodian's authority to provide access to a confidential record is limited to the persons listed in subrule 4.4(2).

4.1(3) *Address of records center.* The address of the department's records center is: Records Center, Office of Document Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

4.1(4) *Records Management Manual.*

a. The department's Records Management Manual contains the records management information required by Iowa Code chapter 304.

b. Chapter III of the manual contains the descriptive information on records that is required by Iowa Code section 22.11. Chapter III, as revised through 2001, is made a part of these rules.

c. The manual is available for examination and copying at the department's records center and at various other departmental offices located throughout the state. A copy of the manual may be obtained at cost from the records center.

4.1(5) *Availability of open records.* Open records of the department are available to the public for examination and copying unless otherwise provided by rule or statute.

4.1(6) *Data processing matching.* All departmental data processing systems that have common data elements can potentially match, collate and compare personally identifiable information.

4.1(7) *Warranty.* No warranty of the accuracy or completeness of a record is made.

4.1(8) *Existing records.* A request for access shall apply only to records that exist at the times the request is made and access is provided. The department is not required to create, compile or procure a record solely for the purpose of making it available. EXCEPTIONS: See Iowa Code section 22.3A and subrule 4.4(5).

4.1(9) *Definitions.* As used in this chapter:

"*Confidential record*" means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the department is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7 or another provision of law, but that may be disclosed upon order of the court, the custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Open record” means a record other than a confidential record.

“Personally identifiable information” means information about an individual in a record that identifies the individual and is retrievable by a unique personal identifier associated with the individual.

“Public” means those persons who are not officials, employees or agents of the department.

“Record” means the whole or a part of a “public record” as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the department.

“Requester” means a member of the public.

This rule is intended to implement Iowa Code chapter 22 and section 304.17.

[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]